

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED

May 10, 2011

In the Matter of CARSON/MATTHEWS, Minors.

No. 300579

Sanilac Circuit Court

Family Division

LC No. 09-035274-NA

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Before: SAAD, P.J., and JANSEN and K. F. KELLY, JJ.

PER CURIAM.

Respondent appeals by right the trial court's order terminating her parental rights to her minor children pursuant to MCL 712A.19b(3)(c)(ii), (g), and (j). We affirm.

Respondent challenges only the trial court's best-interests determination on appeal. Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court is required to affirmatively find that termination is in a child's best interests before ordering termination. MCL 712A.19b(5). We review for clear error the trial court's best-interests determination. MCR 3.977(K).

In this case, the trial court properly found that termination of respondent's parental rights was in the children's best interests. Respondent argues that she participated in all services available to her. The evidence showed that, although respondent was in compliance with most of the requirements of her treatment plan, she did not benefit from the services. A parent must benefit from services offered so that she can improve her parenting skills to the point where the children would not longer be at risk in her custody. In other words, it is necessary but not sufficient to merely comply with a case service plan. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005). The services in which respondent participated were designed to teach her how to protect her children and put their needs first. The record shows that, while participating in services, respondent secretly married Drake, a sex offender, without petitioner's approval and against court order. Respondent's decision to marry a sex offender demonstrated that she did not understand how to protect her children.

Respondent's inability to protect her children was also evident when she insisted that there was no evidence that Drake was not rehabilitated. She claimed that he deserved another chance even after learning from his testimony at the termination hearing that he had not been forthcoming about his entire criminal history. For instance, he never told respondent that his sexual misconduct included two juvenile offenses against a nine-year-old girl and a 13-year-old girl. Further, he admitted having another sexual relationship with a 16-year-old girl after his

release from prison, and minimized the significance of the relationship. Contrary to respondent's assertions, the evidence showed that Drake had a history of several acts of criminal sexual conduct against minors, including juvenile offenses. Even his more recent relationships, though not necessarily criminal, were suspect because they involved young girls. Given Drake's history, the trial court could not compromise the children's safety by returning them to respondent's care when she was married to Drake. Although Drake's actions should have caused respondent concern, throughout the case respondent continued to overlook Drake's transgressions and the risks he posed to her children. In so doing, respondent failed to protect her children.

Respondent contends that the trial court only terminated her parental rights because of her marriage to Drake. She argues that the trial court was unwilling to work with Drake to ascertain whether and to what extent he posed a risk of harm to the children. Respondent's contention is without merit. Drake was a repeat criminal sexual offender who had engaged in inappropriate sexual relationships with minors even after his release from prison. A psychological evaluation, as suggested by respondent, would not have been able to predict whether Drake would have sexually abused respondent's children. To protect the children it was necessary to keep them away from individuals with a record of criminal sexual conduct against minors.

Finally, respondent argues that it would have taken her more time to understand that her marriage was not in the children's best interest because she functioned on a lower level than an average person. But respondent's assertion does not undermine the trial court's best-interests finding. Respondent's inability to timely function in a manner that could keep her children safe did not justify exposing them to a risk of harm. Moreover, respondent's decision to marry Drake posed more than just a risk of harm to the children. Drake's involvement with the family led to emotional concerns for respondent's oldest daughter, who had already been sexually abused by respondent's previous husband. Although respondent argues that the issues between respondent and her daughter were not insurmountable, there was no evidence of a strong bond between them. To the contrary, the evidence showed that the child no longer trusted respondent, did not feel safe with her, and was in need of stability that respondent was unable to provide. In sum, we perceive no clear error in the trial court's determination that termination of respondent's parental rights was in the minor children's best interests. MCR 3.977(K).

Affirmed.

/s/ Henry William Saad  
/s/ Kathleen Jansen  
/s/ Kirsten Frank Kelly